

Victims of Crime Etc (Rights, Entitlements and Related Matters) Bill

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TO

Make further provision about the duties and responsibilities of the Victims' Commissioner and about the Victims' Code; to require victims' services plans for each police service area; to establish a duty to report suspected child abuse by those working in regulated activities, a code of practice on the recording of allegations, a right of appeal by victims against a decision to cease a criminal investigation, and standards for the review of open or reopened homicide cases; to make provision about court procedures relating to vulnerable victims and witnesses; and for connected purposes.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Victims

- (1) (A victim is —
- (a) a person who has suffered harm which was directly caused by a criminal offence, or
 - (b) a close relative of —
 - (i) a person whose death was directly caused by a criminal offence, or
 - (ii) an incapacitated victim.
- (2) It is immaterial for the purposes of subsection (1) that —
- (a) no complaint has been made about the offence;
 - (b) no person has been charged with or convicted of the offence.
- (3) A person (R) is a close relative of another (V) if R is any of the following —
- (a) V's spouse,
 - (b) V's partner,
 - (c) a relative of V in direct line,
 - (d) a sibling of V, or
 - (e) a dependant of V.
- (4) An incapacitated victim is a person within subsection (1)(a) who —

- (a) lacks capacity to enforce any right of a victim under this Act in relation to the offence, and
 - (b) lost that capacity as a direct result of the offence.
- (5) In this section —
- “harm” includes —
 - (a) physical, mental or emotional harm, and
 - (b) economic loss;
 - “criminal offence” means an offence committed, or subject to criminal proceedings, in England and Wales; and
 - “lacks capacity” means lacks capacity within the meaning of the Mental Capacity Act 2005.

2 Duty to notify police of child sexual abuse

- (1) A person who works in a regulated profession or works with children in a regulated activity in England and Wales must make a notification under this section (a “Child Abuse Notification”) if, in the course of his or her work in the profession, the person discovers that a child appears to have been subject to an act of sexual abuse. 15
- (2) For the purposes of this section —
- (a) a person works in a “regulated profession” if the person is —
 - (i) a healthcare professional, 20
 - (ii) a teacher, or
 - (iii) a social care worker in Wales;
 - (b) a “regulated activity” is as defined in Schedule 4 to the Safeguarding Vulnerable Groups Act 2006 (as amended);
 - (c) a person “discovers” that a child appears to have been subject to an act of sexual abuse in either of the following two cases. 25
- (3) The first case is where the child informs the person that the child has been subject to an act of sexual abuse (however described).
- (4) The second case is where the person reasonably suspects that the child has been subject to an act of sexual abuse. 30
- (5) A Child Abuse Notification —
- (a) is to be made to the chief officer of police for the area in which the child resides;
 - (b) must identify the child and explain why the notification is made;
 - (c) must be made before the end of the period of 28 days beginning with the day on which the person making the notification discovers that the child appears to have been subject to an act of sexual abuse; 35
 - (d) may be made orally or in writing.
- (6) The duty of a person working in a particular regulated profession to make a Child Abuse Notification does not apply if the person has reason to believe that another person working in that profession has previously made a Child Abuse Notification in connection with the same act of sexual abuse. 40
- For this purpose, all persons falling within subsection (2)(a)(i) are to be treated as working in the same regulated profession.

- (7) The duty of a person working in a particular regulated profession to make a Child Abuse Notification does not apply if and so long as in relation to the discovered act of sexual abuse that person complies with a safeguarding policy prescribed for the purpose of this section in regulations made by the Secretary of State. 5
- (8) A disclosure made in an Child Abuse notification does not breach —
 (a) any obligation of confidence owed by the person making the disclosure, or
 (b) any other restriction on the disclosure of information.
- (9) The Secretary of State may by regulations amend this section for the purpose of adding, removing or otherwise altering the descriptions of persons regarded as working in a “regulated profession” or working with children in a “regulated activity” for the purposes of this section. 10
- (10) The power to make regulations under this section —
 (a) is exercisable by statutory instrument; 15
 (b) includes power to make consequential, transitional, transitory or saving provision.
- (11) A statutory instrument containing regulations under this section is not to be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament. 20
- (12) In this section —
 “child” means a person under the age of eighteen;
 “healthcare professional” means a person registered with any of the regulatory bodies mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002 (bodies within remit of the Professional Standards Authority for Health and Social Care); 25
 “registered”, in relation to a regulatory body, means registered in a register that the body maintains by virtue of any enactment;
 “social care worker” means a person registered in a register maintained by the Care Council for Wales under section 56 of the Care Standards Act 2000; 30
 “teacher” means —
 (a) in relation to England, a person within section 141A(1) of the Education Act 2002 (persons employed or engaged to carry out teaching work at schools and other institutions in England); 35
 (b) in relation to Wales, a person who falls within a category listed in the table in paragraph 1 of Schedule 2 to the Education (Wales) Act 2014 (anaw 5) (categories of registration for purposes of Part 2 of that Act) or any other person employed or engaged as a teacher at a school (within the meaning of the Education Act 1996) in Wales. 40
- (13) For the purposes of the definition of “healthcare professional”, the following provisions of section 25 of the National Health Service Reform and Health Care Professions Act 2002 are to be ignored — 45
 (a) paragraph (g) of subsection (3);
 (b) subsection (3A).

3 Establishment and conduct of homicide reviews

- (1) In this section “homicide review” means a review of the circumstances a person aged 16 or over has, or appears to have, died as the result of a homicide and —
 (a) no one has been charged with the homicide, or
 (b) the person(s) charged has been acquitted. 5
- (2) The Secretary of State may in a particular case direct a specified person or body within subsection (4) to establish, or to participate in, a homicide review.
- (3) It is the duty of any person or body within subsection (5) establishing or participating in a homicide review (whether or not held pursuant to a direction under subsection (2)) to have regard to any guidance and standards issued by the Commissioner for Victims and Witnesses as to the establishment and conduct of such reviews. 10
- (4) Any reference in subsection (2) or (3) to the Secretary of State shall, in relation to persons and bodies within subsection (5)(b), be construed as a reference to the Department of Justice in Northern Ireland. 15
- (5) The persons and bodies within this subsection are —
 (a) in relation to England and Wales —
 chief officers of police for police areas in England and Wales; local authorities; local probation boards established under section 4 of the Criminal Justice and Court Services Act 2000 (c 43); the National Health Service Commissioning Board; clinical commissioning groups established under section 14D of the National Health Service Act 2006; providers of probation services; Local Health Boards established under section 11 of the National Health Service (Wales) Act 2006; NHS trusts established under section 25 of the National Health Service Act 2006 or section 18 of the National Health Service (Wales) Act 2006; 20
 (b) in relation to Northern Ireland —
 the Chief Constable of the Police Service of Northern Ireland; the Probation Board for Northern Ireland; Health and Social Services Boards established under Article 16 of the Health and Personal Social Services (Northern Ireland) Order 1972 (SI 1972/1265 (NI 14)); Health and Social Services trusts established under Article 10 of the Health and Personal Social Services (Northern Ireland) Order 1991 (SI 1991/194 (NI 1)). 25
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- (6) In subsection (4)(a) “local authority” means — 35
 (a) in relation to England, the council of a district, county or London borough, the Common Council of the City of London and the Council of the Isles of Scilly;
 (b) in relation to Wales, the council of a county or county borough.

4 Statutory duty on elected local policing bodies

- (1) An elected local policing body must assess — 40
 (a) the needs of victims in each elected local policing body’s police area, and
 (b) the adequacy and effectiveness of the available victims’ services in that area. 45
- (2) An elected local policing body must —

- (a) prepare and consult upon an Area Victims' Plan for its police area,
 - (b) having taken account of any responses to its consultation and any Quality Standard, publish the Plan in such a manner as sets out clearly how the identified victim needs will be met by the available victims' services, and 5
 - (c) submit its Area Victims' Plan to the Commissioner for Victims and Witnesses on an annual basis.
- (3) In this section –
- “elected local policing body” and “police area” have the same meaning as in Part 1 of the Police Reform and Social Responsibility Act 2011, and 10
 - “Quality Standard” means the standard published under section 49(1)(f) of the Domestic Violence, Crime and Victims Act 2004.

5 Enforcement of the Victims' Code

- (1) The Parliamentary Commissioner Act 1967 is amended as follows.
- (2) In section 5(1B) omit paragraph (a) together with the final “or”. 15
- (3) After section 5(1B) insert –
 - “(1BA) Subsection (1C) of this section applies if a written complaint is made to the Commissioner by a member of the public who claims that a person has failed to perform a Code duty owed by him to the member of the public. 20
 - (1BB) For the purposes of subsection (1BA) a Code duty is a duty imposed by a code of practice issued under section 32 of the Domestic Violence, Crime and Victims Act 2004 (code of practice for victims).”
- (4) In section 5(4A), after “(1A)” insert “or (1BA)”.
- (5) In section 6(3), at the beginning insert “Except as provided in subsection (3A)”. 25
- (6) After section 6(3) insert –
 - “(3A) Subsection (3) shall apply in relation to a complaint under section 5(1BA) as if for “a member of the House of Commons” there were substituted “the Commissioner”. ”
- (7) In section 7(1A), after “5(1A)” insert “or 5(1BA)”. 30
- (8) In section 8(1A), after “5(1A)” insert “or 5(1BA)”.
- (9) After section 10(2A) insert –
 - “(2B) In any case where the Commissioner conducts an investigation pursuant to a complaint under section 5(1BA) of this Act, he shall send a report of the results of the investigation to – 35
 - (a) the person to whom the complaint relates,
 - (b) the principal officer of the department or authority concerned and to any other person who is alleged in the relevant complaint to have taken or authorised the action complained of, and
 - (c) the Commissioner for Victims and Witnesses appointed under section 48 of the Domestic Violence, Crime and Victims Act 2004.” 40

(10) After section 10(3B) insert—

“(3C) If, after conducting an investigation pursuant to a complaint under section 5(1BA) of this Act, it appears to the Commissioner that—

(a) the person to whom the complaint relates has failed to perform a Code duty owed by him to the person aggrieved, and

(b) the failure has not been, or will not be, remedied,

the Commissioner shall lay before each House of Parliament a special report upon the case.

(3D) If the Commissioner lays a special report before each House of Parliament pursuant to subsection (3C) the Commissioner may also send a copy of the report to any person as the Commissioner thinks appropriate.

(3E) For the purposes of subsection (3C) “Code duty” has the meaning given by section 5(1BB) of this Act.”

(11) In section 10(5)(d), for “or (2A)” substitute “, (2A) or (2B)”.

(12) In section 12(1), after paragraph (b) of the definition of “person aggrieved”, insert—

“(c) in relation to a complaint under section 5(1BA) of this Act, means the person to whom the duty referred to in section 5(1BA) of this Act is or is alleged to be owed;”.

6 Victims’ Code: victims’ entitlement framework

(1) The Victims’ Code (a code of practice issued under section 32 of the Domestic Violence, Crime and Victims Act 2004 (code of practice for victims)) shall include, but not be limited to, the entitlement of victims to receive as follows.

(2) A victim of crime shall be entitled to receive—

(a) accurate and timely information from all the agencies of the criminal justice system concerned with the detection and prosecution of the relevant crime and with the support of victims of crime;

(b) adequate notice of all relevant court and other legal proceedings, including information about decisions by and discussions between a agencies of the criminal justice system relating to the person convicted of the crime concerned (“the perpetrator”), including—

(i) information about any prison sentence previously served by the perpetrator,

(ii) information about relevant changes to the perpetrator’s circumstances whilst on parole or in custody, and

(iii) information about any crimes committed by the perpetrator outside the UK where the victim of the crime concerned is a British national;

(iv) access, where required, to adequate interpretation and translation services; and

(v) information about the direct contact details of the criminal justice agencies and individuals involved in the court or other legal proceedings concerned.

(3) During criminal justice proceedings, HM Courts and Tribunal Service must ensure that victims of crime—

- (a) are not subjected to unnecessary delay by any other party to the proceedings;
 - (b) are treated with dignity and respect by all parties involved; and
 - (c) do not experience discriminatory behaviour from any other party to the proceedings.

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- (4) Children and vulnerable adults must be able to give evidence to a court from a location away from that court or from behind a protective screen.
- (5) The investigating police force concerned must ensure the safety and protection of victims of crime during proceedings, including but not restricted to—
 - (a) a presumption that victims of crime may remain domiciled at their home with adequate police protection if required; and
 - (b) ensuring that the victim and those accompanying them are provided with access to discreet waiting areas during the relevant court proceedings.

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- (6) All victims of crime shall have access to an appropriate person to liaise with relevant agencies on their behalf and to inform them about, and explain the progress, outcomes and impact of, their case. 15
- (7) Witnesses under the age of 18 shall have access to a trained communications expert, to be known as a Registered Intermediary, to help them understand as necessary what is happening in the criminal proceedings. 20
- (8) Victims of crime shall have access to transcripts of any relevant legal proceedings at no cost to themselves.
- (9) Victims of crime shall have the right to attend and make representations to a pre-court hearing to determine the nature of the court proceedings.
- (10) The Secretary of State must take steps to ensure that victims of crime— 25
 - (a) have access to financial compensation from public funds for any detriment arising from the criminal case concerned;
 - (b) are given the right to approve or refuse the payment of any compensation order made by a court against a person convicted of a crime against them; 30
 - (c) have reimbursed to them, from public funds, any expenses incurred by them in attending in court and in any related legal process, whether in the UK or overseas;
 - (d) have available to them legal advice where considered necessary by a judge in court proceedings; and 35
 - (e) are not required to disclose personal data in legal proceedings which puts their safety at risk unless specifically ordered to do so by a judge.

7 Treatment of victims: training

- (1) The Secretary of State shall ensure that judges, barristers and solicitors involved in criminal cases involving sexual and domestic violence undertake specialist training. 40
- (2) The Secretary of State shall publish and implement a strategy for providing training on the impact of crime on victims and victims' rights for staff of the following organisations—
 - (a) the Crown Prosecution Service; 45
 - (b) victim support services;

- (c) probation services;
 - (d) the Foreign and Commonwealth Office;
 - (e) health and social services;
 - (f) maintained and independent schools and colleges of further education; and
 - (g) such other bodies as the Secretary of State deems appropriate.
- (3) The Secretary of State shall publish an agreed timetable for the delivery and completion of the training set out in paragraph 18 above.

8 Duties of the Commissioner for Victims and Witnesses

- (1) Section 49 of the Domestic Violence, Crime and Victims Act 2004 (general functions of Commissioner) is amended as follows. 10
- (2) In subsection (1), after paragraph (c) insert –
- “(d) assess the adequacy of all Area Victims’ Plans submitted to the Commissioner under section 4 of the Victims of Crime Etc (Rights, Entitlements and Related Matters) Act 2016; 15
 - (e) make to elected local policing bodies such recommendations about submitted Area Victims’ Plans as the Commissioner considers necessary and appropriate;
 - (f) prepare a statement of standards (in this section referred to as a “Quality Standard”) in relation to the provision of victims’ services; 20
 - (g) publish the Quality Standard in such manner as the Commissioner considers appropriate;
 - (h) review the Quality Standard at intervals of not more than five years; 25
 - (i) in preparing or reviewing a Quality Standard, consult the public, and for that purpose may publish drafts of the standard;
 - (j) assess the steps taken to support victims and witnesses in giving evidence;
 - (k) make such recommendations in relation to that assessment as the Commissioner considers necessary and appropriate; 30
 - (l) issue guidance and standards for the establishment and conduct of homicide reviews under section 3 of the Victims of Crime Etc (Rights, Entitlements and Related Matters) Act 2016.”
- (3) After subsection (4) insert – 35
- “(4A) The report must include –
- (a) the Commissioner’s assessment of each Area Victims’ Plan submitted to the Commissioner during the year;
 - (b) the Commissioner’s assessment of the steps taken during the year to support victims and witnesses in giving evidence; 40
 - (c) all recommendations made by the Commissioner under paragraphs [(e) or (k)] of subsection [(1)] during the year;
 - (d) any Quality Standard, or revision of the standard, published during the year; and
 - (e) all findings of breach of the Victims Code published by the Parliamentary and Health Service Ombudsman during the year.” 45

- (4) After subsection (5) insert –

“(5A) The Secretary of State for Justice shall lay before Parliament any report received by him or her pursuant to subsection (5).”

- (5) After subsection (7) insert –

- “(8) In this section –

“Area Victims’ Plan” and “victims’ services” has the same meaning as in section 4 of the Victims of Crime Etc (Rights, Entitlements and Related Matters) Act 2016, and

“elected local policing bodies” has the same meaning as in Part 1 of the Police Reform and Social Responsibility Act 2011.”

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9 Requirement for ground rules hearings in certain Crown Court cases

- (1) This section applies to proceedings in the Crown Court.
- (2) At the relevant time, the court shall decide whether it must hold a ground rules hearing.
- (3) The relevant time is the earlier of – 15
- any time prescribed for this purpose in Criminal Procedure Rules, and
 - the time when the jury are sworn, or would be sworn but for the making of an order under Part 7 of the Criminal Justice Act 2003.
- (4) The court shall hold a ground rules hearing if at the relevant time any of the parties proposes to call to give oral evidence a person eligible for assistance by virtue of section 16 (grounds of age or incapacity) or section 17 (grounds of fear or distress about testifying) of the Youth Justice and Criminal Evidence Act 1999. 20
- (5) At a ground rules hearing the court shall consider and make a decision in relation to all ground rules matters. 25
- (6) Ground rules matters are those so prescribed in Criminal Procedure Rules.
- (7) This section does not prevent the court from additionally considering or making a decision in relation to a ground rules matter other than at a ground rules hearing.
- (8) In this section, “Criminal Procedure Rules” means rules made under section 69 of the Courts Act 2003. 30

10 Ground rules hearings: appeals

- (1) An appeal shall lie to the Court of Appeal from any decision to which this section applies, but only with the leave of the judge or of the Court of Appeal.
- (2) This section applies to any decision – 35
- whether to hold a ground rules hearing,
 - whether a person falls within section 7(4),
 - at a ground rules hearing about a ground rules matter,
 - about the conduct of a ground rules hearing.

- (3) Subject to rules of court made under section 53(1) of the Senior Courts Act 1981 (power by rules to distribute business of Court of Appeal between its civil and criminal divisions) –
 - (a) the jurisdiction of the Court of Appeal under this section shall be exercised by the criminal division of the court, and 5
 - (b) the reference in that subsection to the Court of Appeal shall be construed as a reference to that division.
- (4) The judge may continue a ground rules hearing notwithstanding that leave to appeal has been granted under subsection (1), but the ground rules hearing shall not be concluded until after the hearing of the appeal has been determined or abandoned. 10
- (5) On the termination of the hearing of the appeal, the Court of Appeal may confirm, reverse or vary the decision appealed against.

11 Right to review of decision not to prosecute

- (1) The Secretary of State shall make rules giving a victim the right to request the review of a decision by a prosecutor not to prosecute a relevant offence. 15
- (2) The rules must in particular –
 - (a) specify the decisions to which they apply,
 - (b) include the right to request a review of any decision to which subsection (4) applies, 20
 - (c) provide that the review must be conducted by an individual other than the individual who made the decision under review,
 - (d) require a prosecutor to notify a victim, so far as is practicable, of –
 - (i) a decision to which the rules apply,
 - (ii) the victim’s right to request a review under the rules, and 25
 - (iii) the manner in which, and time by which, any request must be made.
- (3) The rules may –
 - (a) provide for the rights they confer on a victim within section 1(1)(b) to be exercisable only by such representative as the rules may provide, 30
 - (b) provide that a request for a review must be made –
 - (i) in such manner, or
 - (ii) by such time
- (4) This subsection applies to a decision by a prosecutor –
 - (a) not to charge a suspect with any relevant offence, 35
 - (b) not to refer a decision whether to charge a suspect with any relevant offence to the prosecutor with authority to charge,
 - (c) in relation to proceedings in respect of any relevant offence –
 - (i) to discontinue or withdraw charges in respect of all relevant offences in those proceedings, 40
 - (ii) in relation to all relevant offences in those proceedings, to offer no evidence, or
 - (iii) to seek an order for the charge to lie on the file.
- (5) Subsection (4)(b) does not apply to a decision taken –
 - (a) at the request of the applicant, or 45

- (b) as a result of the applicant withdrawing support for the prosecution.
- (6) The power to make rules under this section is exercisable by statutory instrument.
- (7) A statutory instrument containing rules under this section is subject to annulment in pursuance of a resolution of either House of Parliament. 5
- (8) In this section—
 - “applicant” means a person applying for a review under the rules;
 - “police force” has the same meaning as in section 3 of the Prosecution of Offences Act 1985;
 - “prosecutor” means— 10
 - (a) a police force,
 - (b) the Crown Prosecution Service, or
 - (c) a person to whom section 5(2) of the Prosecution of Offences Act 1985 applies;
 - “relevant offence” mean any criminal offence by virtue of which the victim is a person within section 1(1); 15
 - “suspect” means a person interviewed in relation to a relevant offence.

12 Interpretation

In this Act—

- “Commissioner for Victims and Witnesses” means the Commissioner appointed under section 48 of the Domestic Violence, Crime and Victims Act 2004; 20
- “ground rules hearing” means a ground rules hearing held pursuant to section 7;
- “ground rules matter” has the meaning given in section 7(6); 25
- “victim” has the meaning given in section 1.

13 Short title, commencement and extent

- (1) This Act may be cited as the Victims of Crime Etc (Rights, Entitlements and Related Matters) Act 2016.
- (2) This Act comes into force— 30
 - (a) for the purpose of making regulations, on the day on which it is passed, and
 - (b) for remaining purposes, at the end of the period of 2 months beginning with the day on which it is passed.
- (3) This Act extends only to England and Wales. 35

Victims of Crime Etc (Rights, Entitlements and Related Matters) Bill

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To make further provision about the duties and responsibilities of the Victims' Commissioner and about the Victims' Code; to require victims' services plans for each police service area; to establish a duty to report suspected child abuse by those working in regulated activities, a code of practice on the recording of allegations, a right of appeal by victims against a decision to cease a criminal investigation, and standards for the review of open or reopened homicide cases; to make provision about court procedures relating to vulnerable victims and witnesses; and for connected purposes.

*Ordered to be brought in by Keir Starmer,
Tim Loughton, Sarah Champion,
Jenny Chapman, Sir Edward Garnier,
Mr Barry Sheerman, Caroline Lucas
and Liz Saville Roberts.*

*Ordered, by The House of Commons,
to be Printed, 20 October 2015.*

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